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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

Vol. 14

May 6, 1997

No. 16

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WEEK IN REVIEW

HOUSE

Representatives spent a considerable amount of time on the House floor so as to send legislation over to the Senate ahead of a May 1 deadline. Legislation received after that date may not be placed on the Senate calendar this session without a two-thirds affirmative vote of the membership.

The House granted free conference powers to the conference committee deliberating over S.70. The House then adopted the Free Conference Report which requires any retired justice or judge appointed by the Chief Justice to serve in the state's courts to have been found qualified by the Judicial Merit Selection Commission within four, rather than two, years. A retired judge is allowed to postpone indefinitely his decision to engage in the practice of law. Once made, this decision is irrevocable, rendering him ineligible for further service as a judge or justice. Currently the decision must be made within thirty days of retirement. The bill provides that the Chairman of the Judicial Merit Selection Commission, upon the advice and consent of the commission, shall select members to serve on Citizens Committees on Judicial Qualifications for each geographic district set by the commission. Under rules adopted by the commission, these committees will advise the commission concerning judicial candidates. Members appointed to serve on the Citizens Committee will be paid one hundred dollars per round of screening. The bill also reroutes the appointment process for masters-in-equity such that candidates for such positions submit applications to the Judicial Merit Selection Commission which, in turn, submits its reports and recommendations to the appropriate legislative delegation. Choosing from the list of candidates found qualified by the commission, the delegation submits its recommendations to the Governor until such time as a candidate meets with his approval.

The following bills received third reading last week:

H.3828- as amended, provides that public and nonpublic high school graduates of this state who meet certain specified criteria will receive a Superior Technology or Academic Achievement Requirements (STAR) diploma and will also receive a \$500 scholarship to attend any state-supported institution of higher learning or technical college. In order to qualify for the STAR diploma, a student must maintain an aggregate numerical grade average of at least 90 for grades 9-12.

H.3764- as amended, makes the following revisions in the laws governing Certified Public Accountants: (1) allows CPAs to accept commissions, rather than hourly fees, for certain services; (2) allows CPAs to provide services on a contingent basis; (3) eliminates the four hundred hour auditing requirement for licensure; (4) eliminates the requirement that a specified amount of the continuing education hours required of CPAs be devoted to auditing or

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accounting subjects; and (5) amends the form of practice for CPA partnerships or entities so as to conform with national standards for CPAs.

H.3791- provides that penalties for threatening the life, person, or family of a public official also apply for threats against a highway patrolmen.

H.3940- Truth in Military Confinement Act- states that no early releases may be granted to military personnel serving confinement pursuant to a special, general, or summary court martial.

H.3861- provides that a male under the age of 16 and a female under the age of 14 are not capable of entering into a valid marriage.

H.3595 - amends current law concerning joint municipal water systems and sources of revenue available to them.

H.3669 - broadens the scope of law authorizing the issuance of revenue bonds of Clemson University, relating to the purpose of bonds issued for, among other things, acquiring, constructing, renovating, and equipping athletic facilities at the University.

H.3271 - as amended, provides that when a sales and use tax or tolls are imposed to finance transportation projects within a county, the requirement that the projects must be connected and form a single transportation system is deleted. A referendum held for this purpose must not be held more often than once in a twelve month period.

H.3550 - allows the examination of records, returns, and reports held by the Department of Revenue (the Department) by persons retained on an independent contract basis by the Department to collect delinquent taxes.

H.3554 - clarifies current law concerning exemptions from sales tax on tangible personal property purchased pursuant to a contract with the federal government.

H.3557 - eliminates the SC Accommodations Tax Oversight Committee and devolves its oversight function on the SC Department of Revenue.

H.3802 - allows the disclosure of specific information to a US Senator from South Carolina, a US Representative from South Carolina, a South Carolina Constitutional Officer, or a member of the SC General Assembly in connection with a taxpayer's written inquiry for assistance to the elected official, who has then referred the taxpayer to the South Carolina Department of Revenue for assistance.

H.3298 - deletes the multiple lot discount provision allowed for purposes of property tax valuation when undeveloped acreage is surveyed into subdivision lots, and provides that the market value for property tax purposes of the lots and residences constructed thereon shall continue to be their value as undeveloped acreage until the lot is sold or the residence is certified for occupancy, whichever occurs first.

H.3332 - provides that a boat on which the interest portion of any indebtedness thereon would be tax deductible under the Internal Revenue Code as an interest expense on a qualified primary or secondary residence is also deemed to be a primary or secondary residence for purposes of *ad valorem* taxation in this State and is considered real rather than personal property for these purposes. Further provides that maximum *ad valorem* taxation on such a boat for any year is \$1,500.

H.3468 - provides a property tax exemption for the dwelling home and a lot which is owned in fee, or for life, or jointly with a spouse by a South Carolina resident who is a recipient of the Medal of Honor or who was a prisoner of war in World War I, World War II, the Korean Conflict, or the Vietnam Conflict.

H.3553 - provides that when a trustee holds legal title to a dwelling that is the legal residence of a beneficiary 65 years of age or older, or totally and permanently disabled, or blind, and the beneficiary uses the dwelling, the dwelling may receive a homestead exemption if the trustee applies in person or by mail for the exemption, and the application is effective for as long as the property meets eligibility requirements.

H.3556 - amends current law relating to time limits for assessment of taxes and fees by deleting references to determination and assessment of fees due under laws administered by the Department of Revenue.

H.3762 - provides that for purposes of equalization and assessment, a homeowners' association may designate one or any number of its qualifying tracts or parcels as homeowners' association property for purposes of special valuation.

H.3625 - relates to current law concerning corporate income tax credit for construction of or improvement to an infrastructure project; provides definitions and provides that the tax credit may not be claimed before dedication or conveyance of the infrastructure project; provides that if, within ten years of claiming the tax credit, a road that is part of the infrastructure project qualifying for the credit is removed or planned to be removed from the state highway or public road system, the amount of credit allowed for the construction of the road must be added to corporate income tax due from the taxpayer in the first taxable year following the removal of the road from public use.

H.3810 - provides that a parent-teacher organization affiliated with an educational institution is exempt from filing a registration statement with the Attorney General, provided none of its fund-raising activities are carried on by professional solicitors.

H.3528 - provides that the revenue impact statement on bills must be certified by the Board of Economic Advisors.

H.3601 - deletes the Private Job training Committee, an appointed private-sector committee which provides advice on the utilization of short-term adult funding for collaborative skill training utilizing the technical education system and vocational education system.

H.3819 - as amended, enacts the "Fee in Lieu of Taxes Simplification Act of 1997," the purpose of which is to simplify the method for obtaining the fee in lieu of taxes benefits while

maintaining the county council approval process. Amendment allows a county to use money from fee in lieu of taxes received from a project located in a multi-county industrial park for infrastructure at that project, irrespective of whether the project is investing five million dollars. Amendment also requires that, for purposes of fee in lieu of property taxes arrangements and industrial development projects, investors must file a copy of the inducement or lease agreement with the Department of Revenue and the county auditors and the county assessors for the county or counties in which the project is located within 30 days of the date of execution of the agreement. The amendment provides for a penalty should the payments of a fee agreement become insufficient to completely service the interest and principal of the associated debt obligation. The amendment provides for the fee payment to be distributed in the same manner and proportion as if the property were taxable. The amendment also addresses the fee payment for purposes of bonded indebtedness.

H.3465 - as amended, provides a pension of 50% of a state employee's compensation at the time of his death to certain of his survivors when the employee dies a violent death while performing state duties. Amendments include a provision reinserting language concerning nomination of different beneficiaries for refund of accumulated contributions; and the addition of language clarifying that provision of free tuition is for children of certain employees who are killed or become permanently and totally disabled as defined by the State Retirement System while performing their employment duties for the State where the death occurred as a result of a criminal act by another person against the employee, and the criminal act is a felony, or die a violent death while performing the state's duties.

H.3419 - as amended, removes the current \$3 million cap on bonds issued by trustees of SC State University and provides that the bonds may be used for acquiring, constructing, reconstructing, renovating, or equipping athletic facilities and for refunding certain previous bonds. Amendment caps the bonds at \$40 million.

H.3548 - as amended, relates to the requirement under current law that a non-resident withholding agent, and a resident withholding agent who is not required to deposit and pay federal withholding to the Internal Revenue Service under the provisions of the Internal Revenue Code, must remit certain SC taxes withheld. Deletes the requirement that these agents "make a return" when they remit SC taxes withheld under this chapter. Amended to provide that where essentially the same information required to be submitted by Section 12-8-1540 is required to be submitted to the IRS on magnetic media, the same method must be used for purposes of this section.

H.3059 - includes seafood processing facilities within the classification of agricultural real property for purposes of classification of property for the property tax. The committee amended the bill to read that "a dockside facility whose primary use is the landing and processing of seafood is considered agricultural real property."

H.3345 - as amended, provides an exemption from property taxes for not more than two personal motor vehicles owned or leased by a person whose vision meets the definition of "blindness" as defined for purposes of qualifying for services from the SC Commission for the Blind. Amended to provide the exemption for only one vehicle.

H.3551 - as amended, amends current method of establishing the property tax exemption by calculating the amount based on the school operating millage imposed for tax year 1995 (the method allowed under current law) or the current school operating millage, whichever is lower. Amended to add that a school district whose operating millage falls below the 1995 school year operating millage may request to receive tax relief based on the 1995 millage if the current operating millage per pupil plus the current debt service millage is equal to or less than the total millage per pupil for 1995, or if the operating millage per pupil for the 1995 tax year reduced by the amount by which the total millage per pupil for all purposes in the current year exceeds the total millage per pupil for the 1995 tax year but not below the actual operating millage per pupil for the current year. The amendment also provides that the Department of Revenue will be responsible for certifying that the above conditions are met based on the latest completed fiscal data of the requesting district, and provides that any funds received by any such school district in excess of its current millage under the foregoing may be used by such district to pay bonded indebtedness.

H.3498 - as amended, provides that when spouses both earn annual and sick leave as SC state employees, they may transfer such leave to their spouse subject to the terms and conditions of the state employee leave-transfer program. Amended to require the approval of the agency head of both spouses' employers.

H.3650 - as amended, includes numerous conforming provisions to the Family Independence Act of 1995; most of these provisions concern child support, employment, and training. Amendments include revision in the time limits for a child support obligor to be served and to respond in various instances pursuant to a notice of financial responsibility, a revision strengthening the provisions concerning applicants seeking employment, and technical amendments.

H.3651 - as amended, includes numerous conforming provisions that states must have in effect in order to remain eligible for federal funding under Title IV-D of the Social Security Act. Many of these provisions relate to child support enforcement. Amendments include technical changes, as well as changing from \$2500 to \$1000 the threshold amount of unpaid child support which prompts an arrearage lien process against the obligor; an authorization for the Child Support Division to promulgate regulations and rules, if necessary, to implement the provisions of the section; and punitive measures against any individual or entity who prepares or submits certain falsified information.

H.3626 - as amended, repeals and rewrites current law relating to funding additional infrastructure improvements with a portion of admissions taxes paid to certain tourism and recreation facilities. The bill breaks the current statute into two separate sections and defines terms that were not defined in the current statute. The bill also provides clear dates by which certain procedures must be completed and provides processes for making application to have a business subject to the statute and also provides procedures for counties and municipalities to apply for grants from the tourism fund. Amendments include deleting a duplicative subsection, providing for the boundaries of a designated development area to be determined prior to the date that the certification application is approved, and providing for the council to determine the status of the tourism or recreation facility as an expansion or a new facility.

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H.3127 - as amended, provides that under the provisions of the 1996-97 Appropriation Act, technical colleges as well as state-supported colleges and universities may offer education fee waivers to no more than 2% of their undergraduate student body during fiscal year 1996-97. The amendment strikes reference to a fiscal year because the amendments will be permanent law, not just for one year.

H.3450 - as amended, provides that all interest earnings on the County Transportation Fund must be credited to counties in the ratio that the county's annual distribution is of the total of such distributions statewide, and these distributions shall not include counties that administer their own "C" funds. Current law provides that these funds are credited to the State Highway Fund. Amendment deleted the word "interest," so as to provide that all earnings on the County Transportation Fund must be credited as above-stated.

S.620- provides that the Charitable Solicitations of Funds Act does not apply to parent-teacher associations affiliated with any school or to a local chamber of commerce.

H.3443 - Provides that the method of calculating the sales tax due on the sale of boats and motors to a resident of another state for licensing in the other state, is the same method currently used to calculate sales tax due on the sale of a motor vehicle to a resident of another state for licensing in the other state.

H.3340- as amended, provides that the Belle W. Baruch Foundation facilities in Georgetown County may be utilized by any accredited, not-for-profit public or private institution of higher learning headquartered in this state.

H.3846 - Establishes a \$300 cap on the sales tax imposed on the sale of livestock trailers.

H.3859 - Excludes single member liability companies and grantor trusts from all state tax liability in certain circumstances and amends other sections of the code related to limited liability companies.

H.3850 - Amends several sections of the code relating to, among other items, tax returns, the licensing of game machines, sales and use tax exemptions, and private car rental surcharges.

H.3605 - Allows a county treasurer to enforce collection of a check that is returned unpaid or is dishonored for the payment of county or municipal taxes, so long as no person is twice put in jeopardy for the same offense; provides that county or municipal taxes which remain unpaid as a result of a check being dishonored or returned unpaid constitute a lien on the property subject to the tax until the taxes and all penalties, interest and other charges due are paid in full.

H.3995 - Lowers the threshold from \$900,000 to \$450,000 for the exemption of a county from the Sunday closing laws based on accommodations tax revenues in the county.

H.4026 - Comprehensive bill revising the *SC Consolidated Procurement Code*.

H.3147 - as amended, prohibits the Governor's annual budget recommendation from proposing the appropriation of surplus general fund revenues in excess of amounts officially recognized as

such by the Board of Economic Advisors. Also prohibits the appropriation of surplus general revenue funds in excess of amounts officially recognized as such by the Board of Economic Advisors. Amended to clarify that the bill also relates to both House and Senate joint resolutions or bills dealing with appropriations.

H.3637 - as amended, amends current law concerning job tax credits by providing that a taxpayer who makes a capital investment of at least \$20 million at a single site within a three year period may elect to have the number of new and additional new full-time jobs determined by comparing the monthly average number of full-time jobs subject to SC income tax withholding at the site for the taxable year with the monthly average for the prior taxable year. The calculation of new and additional jobs is allowed for a five year period commencing in the year in which the \$20 million of capital investment is completed. Amendments include a provision clarifying that jobs transferred from one site to another site will not count as new and additional jobs for job tax credit purposes; and a provision that jobs transferred from one subsidiary to another subsidiary will not count as new and additional jobs for job tax credit purposes.

H.3919 - as amended, allows a taxpayer who operates a qualifying distribution facility to use income tax credits against other state tax liabilities other than property tax. Amendments include: a provision allowing two qualifying entities which are defined as a "Controlled Partnership" as of the date of the execution of the inducement agreement to be treated as a single entity for purposes of the big fee regarding the level of investment (\$45 million) and the assessment ratio for the super fee (4%); a provision allowing a company investing \$600 million to qualify for the super fee-in-lieu, and an assessment ratio of 4% can be negotiated; an amendment providing for a 10 year carry-over of the investment tax credit which is given for certain types of investments in an economic impact zone (currently there is not a carry-over for this credit); and an amendment defining what a qualifying project is, and expanding the definition to include office parks built by a county or political subdivision of the State, and also clarifying that if a credit is claimed under this section, no credit may be claimed under Section 12-6-3420 (corporate income tax credit for construction or improvement of an infrastructure project).

H.3757 - as amended, provides that consulting fees paid to a retired member of the state retirement system by an employer covered by the system are considered earnings within the earnings limitations of the system. Also provides that consulting fees paid to a retired member of the police retirement system by an employer covered by the system are considered earnings within the earnings limitations of that system. Amendments include a provision that consulting fees paid to a corporation or partnership in which the retiree or a member of his immediate family, individually or in the aggregate, are the controlling shareholders or partners, are also considered earnings; and an amendment repealing a section of the law which is in conflict with the provisions of the bill. The House amended the bill so as to prevent a retiree from returning to work as a consultant in all public employment settings.

H.3608 - as amended, amends the SC Income Tax Act so as to allow a deduction for individual taxable income for amounts paid for health insurance premiums by self-employed persons to the extent that the cost of these premiums was not deducted on the taxpayer's federal income tax return. The House amended this bill by changing the date for which the bill is effective

(upon approval by the Governor) from "taxable years beginning after 1996" to "taxable years beginning after 1997."

H.3655 - as amended, amends current law concerning maximum tax on the sale or lease of certain items by providing that a boat and trailer which is sold at the same time as, and is included in the sale of, a boat to the same purchaser, is to be taxed as a single sale. The House amended the bill to change the effective date (upon approval by the Governor) from July 1, 1997, to July 1, 1998.

H.3383 - allows reasonable attorney fees to be recovered in a contested administrative proceeding where the state or political subdivision is not the prevailing party.

H.3379- as amended, allows the owner of a security to designate a beneficiary who is to take ownership of the security upon the owner's death.

H.3992- provides that a vehicle which qualifies for a reduced value for property tax because of high mileage in one tax year shall continue to receive the high mileage deduction for subsequent tax years without a new application.

H.3461- as amended, allows limited numbers of parents and adult school volunteers and employees to ride on school buses. No rerouting of buses may occur to accommodate these adults.

H.3961- as amended, provides the manner in which a person who has been disqualified from driving a commercial vehicle for one year or more may be re-examined to obtain a commercial driver's license. Amendments include lowering the amounts of fines (and also lowering the possible terms of imprisonment for second and subsequent offenses) which may be imposed upon a person who is convicted of operating a commercial vehicle without the proper class commercial license or permit; changing the effective date of the legislation from "upon approval of the Governor" to "October 1, 1997;" and adding a new section to the bill concerning tendering or interchanging of an intermodal trailer, chassis, or container to a motor carrier.

H.3112- as amended, establishes the Osteoporosis Education Fund to promote public awareness, prevention, and treatment of osteoporosis. An amendment to the bill makes it clear that DHEC is not responsible for carrying out the provisions of the legislation if the agency does not receive funds from the Osteoporosis Education Fund.

H.3771- as amended, amends several sections of the code relating to the purposes and uses of the Superb Account and the Superb Financial Responsibility Fund. The bill clarifies that the Fund may pay claims directly for bodily injury and property damages caused by releases from underground storage tanks containing petroleum or petroleum products.

H.3563- as amended, rewrites the practice act for funeral directors and embalmers to make it conform to the administrative framework established for all boards and commissions administered by LLR.

H.4062- allows a member of the Citadel's Board of Visitors to fill out his present term despite the fact that he will exceed the prescribed age limit before the expiration of the term.

H.3504- as amended, amends several sections of the state's coastal fishery laws. Several provisions in the bill concern the licensing requirements for seafood dealers and trawling vessels. The bill also provides for the times and circumstances when it is lawful to set, fish and locate crab pots and possess crabs and requires a person using crab traps for commercial purposes to acquire a license (the S.C. resident fee would be \$25.00 for the first 50 traps, while the non-resident fee would be \$300.00 for the first 50 traps)

H.3801- changes the composition of the board of trustees of the Firemen's Pension Fund.

H.3767- increases the maximum width allowed for a cotton modular vehicle from 107 inches to 110 inches.

H.3292- as amended, provides that where cities and counties contract must follow the procurement code in awarding a contract to an entity for demolishing substandard housing.

H.3699- states that a special guest fishing license for an annual fee of \$50.00 may be issued only to the owner or lessee of private property bordering inland fishing waters or bordering joint fishing waters, including public mountain trout waters, and entitles persons to fish from the shore, from a pier or dock originating from the property, or within 100 feet of either side of the pier or dock without an additional fishing license.

H.3606- concerning the Solid Waste Policy Management Act Among this bill's provisions are changes in certain definitions contained in the Act and changes regarding the duties of the Office of Solid Waste Reduction and Recycling.

H.3590- prohibits harassing wildlife by shining lights in Game Zone 6.

H.3499- provides that when a law enforcement officer responds to a distress call in a neighboring jurisdiction, his authority, rights, privileges, and immunities apply as if he were within in his own jurisdiction.

H.3132, a measure prohibiting the use of sex, race, color, ethnicity, or national origin in discriminating against or granting preferential treatment to individuals in public employment, education, and contracting, was recommitted to the Judiciary Committee. A Judiciary Committee amendment was ruled out of order insofar as it improperly converted **H.3132**, introduced as a joint resolution proposing an amendment to the state constitution, into general bill effecting changes through statutory revision.

SENATE

"Lost Trust"

The Senate adopted Sen. Tommy Moore's motion that all necessary authority be granted to the Senate Finance Committee and the Senate Judiciary Committee to establish a

Joint Subcommittee to ascertain and report to the Senate (by April 1, 1998) its findings concerning the need for future legislation, its review of the propriety of the passage of certain existing statutes, and its findings as to possible corruption in the State of South Carolina. The subcommittee is authorized to review all matters relating to the consideration and/or passage of the capital gains tax and/or other legislation involved in the conduct of the U.S. Government investigation and prosecution known as "Operation Lost Trust."

The subcommittee, which is authorized to continue its work during the interim between annual sessions, is to publish in the Senate Journal a set of procedures and guidelines for the conduct of the investigation. The subcommittee must be composed of seven members, appointed by the President *Pro Tempore* of the Senate, three of whom must be appointed upon the recommendation of the Chairman of the Judiciary Committee, and four of whom must be appointed upon the recommendation of the Chairman of the Senate Finance Committee. Also, three members must be appointed from the minority party and four members must be appointed from the majority party.

Legal Holidays

The Senate gave third reading and sent to the House **S.249**, which makes Martin Luther King's birthday (January 15) and Confederate Memorial Day (May 10) regular, rather than optional, holidays for state employees. The bill also provides that Washington's birthday (the third Monday in February) and Election Day will become optional, rather than regular, holidays.

Secretary of State

The Senate gave third reading and sent to the House **S.604**, which provides that a person elected to the office of Secretary of State in the 1998 general election or thereafter shall receive no compensation and shall exercise no functions or duties. The bill further provides that the functions, duties, powers, and authority of the office must be devolved upon the state agencies in the manner that the General Assembly shall provide by law.

The Senate voted to give special order status to **S.632**, a joint resolution proposing an amendment to the Constitution, abolishing the office of the Secretary of State on July 1, 1999. The bill is up for second reading on the Senate calendar with Sen. Ford desiring to be present.

The General Appropriation Bill

Senator Drummond, chair of the Senate Finance Committee, and the chairs of the various Senate Finance subcommittees, reported on the work of the committee on **H.3400**, the 1997-98 General Appropriation Bill. The Senate then gave the bill a second reading, with notice of general amendments on third reading, carrying over the Committee Report and all amendments to third reading. The Senate will resume consideration of the bill on Tuesday, May 6.

Other Senate Action

The Senate gave third reading and sent to the House **S.542**, which concerns textbooks and instructional materials used in SC's public schools. **S.49** also received third reading and

was sent to the House. This bill revises the term of office for SC magistrates. S.75, which relates to victims' rights, received third reading and was sent to the House. Another bill which received third reading in the Senate and is now pending in House committee is S.547. This bill creates the SC Community Development Financial Institutions Commission, which would identify and respond to community needs for capital, credit, and development services in the absence of, or as a complement to, services provided by other lenders. These bills are all summarized in this issue of the *Legislative Update* under the "Bills Introduced" section.

COMMITTEE ACTION

JUDICIARY

The Judiciary Committee gave a report of favorable with amendment to H.3591, the South Carolina Private Property Rights Protection Act. The legislation addresses situations where regulations and other governmental actions restrict the use of private property to such an extent that the value of the real property is significantly diminished, but the property owner is not compensated for his loss. As introduced, H.3591 provides that such situations may be considered takings for which private property owners would be due compensation, as guaranteed by federal and state constitutions. The Attorney General is charged with creating takings guidelines to assess the purpose of, impact of, potential cost of, and alternatives to proposed regulations which would affect the value of private real property. Remedies are provided. The committee amendment completely rewrites the bill and establishes a new, separate cause of action for property owners who are "inordinately burdened" by governmental actions. This cause of action is independent of the Constitutional doctrine of takings. Under the act, a real property owner is entitled to relief, which may include compensation for the actual loss to the fair market value of the property, for specific action of a governmental entity which has inordinately burdened an existing use of real property or a vested right to a specific use of real property. In order to seek relief under the act, a property owner must act within one year of the governmental action which he claims is an inordinate burden on his property. A specified procedure must be followed: At least 180 days before filing an action, the property owner must file a written claim with an appraisal demonstrating loss in fair market value attributable to governmental action. During this preliminary 180 day period, the governmental entity must notify in writing all involved parties and notify all owners of property contiguous to the property that is the subject of the claim. The governmental entity must make a written settlement offer which may include the adjustment of land development or permit standards, transfer of development rights, land swaps, issuance of variance or special exception, permitted development on least sensitive area of land, purchase of property by government entity, and/or other specified modifications. The property owner may accept the offer and, should the offer contravene the application of a statute as it would otherwise apply to the subject property, the property owner and the governmental entity would jointly file an action in circuit court for settlement approval. If the settlement offer is not accepted by the property owner, the governmental entity must, within the 180 day period, issue a "ripeness decision"

identifying the permissible uses for the property. Should neither the settlement offer nor the ripeness decision satisfy the property owner, the owner may file a claim in circuit court. The circuit court shall determine, considering the settlement offer and ripeness decision, whether the governmental entity inordinately burdened the property. If the court finds inordinate burden, a jury is impaneled to determine the amount of compensation. The formula for compensation is the fair market value of the property at the time of the governmental action minus the fair market value of the property, as inordinately burdened (considering the settlement offer and ripeness decision). Compensation must include reasonable prejudgement interest from the date that the claim was submitted. The property owner is also entitled to reasonable attorney fees and costs if the owner prevails and the court determines that the settlement offer and ripeness decision were not bonafide offers which would have resolved the claim. The governmental entity is entitled to reasonable attorney fees and costs if the entity prevails and the court determines that the owner rejected a bonafide offer.

The Committee also gave a report of favorable with amendment to H.3862 which enacts recommendations from the Governor's Juvenile Justice Task Force. The bill authorizes the Department of Juvenile Justice to establish a prison industries system. All funds collected by DJJ from the sale of articles produced in industry system must be used to defray the necessary expenses or operating the program and pay the salaries of personnel involved in the program and the wages of juveniles employed. The Committee amendment specifies that out of the wages paid to juveniles, the following must be deducted (with total deductions not to exceed eighty percent of gross wages): (1) state, federal and local taxes, (2) child support monies, where applicable, (3) funds for the compensation of victims, in an amount comprising no more than twenty percent and no less than five percent of gross wages. Of this victim compensation money, ninety-five percent must be used to compensate the victim(s) of the juvenile's crime and five percent must be submitted to the SC Victim's Compensation Fund. The Juvenile Parole Board is authorized to determine the conditions for parole for juveniles transferred from DJJ to another state agency due to mental illness or mental retardation requiring specialized care. Before the juvenile may be released from the agency providing appropriate care, that agency must submit a request to the Juvenile Parole Board and obtain the board's approval. The bill also authorizes the Juvenile Parole Board to conduct parole hearings via two-way closed circuit television.

LABOR, COMMERCE AND INDUSTRY

The Labor, Commerce and Industry Committee gave a report of favorable with amendment to S.254 which provides comprehensive changes for the state's automobile insurance market. The bill as passed by the Senate has been popularly referred to as the "Virginia Plan" insofar as the legislation generally takes as its model the auto insurance system enacted in that state. House Labor, Commerce and Industry amendments diverge from the Senate version in key areas, primarily in terms of how insurance is provided for those who are least insurable in the voluntary market. The bill repeals compulsory auto insurance, allowing an individual (who has not committed specified violations) to register an uninsured motor vehicle in lieu of securing automobile insurance. This may be accomplished by paying a five hundred dollar annual fee into the Uninsured Motorist Fund established under the bill. An individual who owns or operates an uninsured vehicle without paying the fee is guilty of a misdemeanor. If an

uninsured motorist who has not paid the requisite fee is involved in an accident, he must pay a three hundred dollar reinstatement fee. Fifty percent of this reinstatement fee as well as the dollar currently collected on each uninsured motorist coverage policy must be directed to the Department of Public Safety and deposited in the "Uninsured Enforcement Fund."

With regard to the voluntary automobile insurance market, the bill authorizes flex rating. Auto insurance rate level increases or decreases seven percent above or below current rates may take effect without prior approval. House amendments specify that auto insurers may utilize rating tiers in the voluntary market. The bill specifies criteria which insurers may not use as a basis for refusing to issue or renew a policy.

House and Senate versions differ with regard to individuals who seek, but are unable to obtain auto insurance in the voluntary market. The versions of both houses eliminate the existing Reinsurance Facility and recoupment fees. The bill, as passed by the Senate, would place in its stead an assigned risk system in which the individuals who are uninsurable in the voluntary market are distributed among all auto insurers in the state, with those insurers who conduct the most business in the state receiving the largest percentage of assigned risks. The insurer to which the individual is assigned must write basic coverage. House amendments establish a Joint Underwriting Association comprised of all auto insurers conducting business in the state. This JUA must provide auto insurance coverage which is set at a self-sustaining rate. That is, premiums paid must be sufficient to cover losses.

The committee gave a report of favorable with amendment to H.3852 which authorizes the chartering of state savings banks. An institution newly chartered as a state savings bank or an institution which converts to a state savings bank would have, as primary regulators, the State Board of Financial Institutions and the Federal Deposit Insurance Corporation (FDIC). Thrift institutions which currently operate in South Carolina under a federal charter could, through conversion to a state savings bank, escape the plenary regulatory authority of the federal Office of Thrift Supervision (OTS), which preempts all conflicting state law. The state savings bank charter is offered as an option which might enhance local control for banking resources in the midst of the trend towards consolidation and large multi-state banking conglomerates. The bill affords South Carolina savings banks parity with federal institutions in terms of investments and activities permitted.

The committee gave a report of favorable with amendment to H.3274 which enhances the state's "Right to Work" laws. The bill broadens the scope of such laws so as to subject to penalties not only employers, but also any person or labor organization who engage in practices which have the effect of requiring an employee to become or remain a member of a labor organization or pay any dues, fees, or charges to a labor organization. The Department of Labor, Licensing and Regulation is granted investigatory powers in disputes regarding alleged violations of "Right to Work" laws. A private cause of action is created for individuals denied employment in violation of "Right to Work" provisions. Amendments proposed by the subcommittee set civil and criminal penalties for violations which mirror those used for enforcement of "payment of wages" and "child labor" laws.

The committee gave a report of favorable with amendment to H.3945 which provides for a workers' compensation insurance discount of at least five percent for employers who participate in a drug prevention program designed to prevent the use of drugs or alcohol by

employees on the job. The Insurance Director is authorized to set qualifications for and certify the drug prevention programs eligible for the discount. The qualifications set by the Insurance Director shall be used by the workers' compensation carrier, unless the carrier has established its own guidelines. Employees must be notified of drug prevention programs implemented by employers. Substance abuse testing and other information related to prevention programs must be confidential and is inadmissible in a criminal proceeding. Discounts must be provided in policies issued on or after October 1, 1997.

The committee recalled from subcommittee **S. 236** and gave the bill a report of favorable with amendment. The bill requires counties and municipalities to adopt the latest version of national, regional, or model building codes and establishes a procedure by which a political subdivision may apply for a temporary exemption. The bill creates functions, duties, and registration for building code enforcement officers and specifies the sources of funding for implementing training, certification, and continuing education for these officers.

The committee reported favorably on **H.3785** which shortens the length of time, from fifteen days to seven days, during which a homeowner is required to install, repair or replace a smoke detector after a first violation of the current law which requires all one and two family dwellings, including manufactured housing, be equipped with approved and functioning smoke detectors.

The committee gave a report of favorable with amendment to **S.269** which conforms the State Board of Barber Examiners statute with the uniform administrative framework established for professional and occupational licensing boards. The committee amendment provides that a barber licensed in another state or country with licensing requirements which meet or exceed those of this state must show proof that he has at least one year of experience (rather than the current two years) in that jurisdiction in order to obtain a certificate of registration to practice in this state.

BILLS INTRODUCED

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

H.4097 HUNTING MIGRATORY WATERFOWL Rep. Harvin

This bill makes it unlawful to hunt migratory waterfowl within 150 yards from any residence without the written permission of the landowner, on property located in specified areas of Clarendon County. The bill provides that a violator is guilty of a misdemeanor and, upon conviction, must be fined not more than \$200 or imprisoned not more than 30 days.

S.9 OPEN SEASON FOR ANTLERED DEER Sen. Lander

This bill states that in Game Zone 2, the Department of Natural Resources must not prohibit hunting or taking deer with modern firearms on more than two consecutive days on private

land only between October 11 and January 1 of each year.

S.479 COASTAL FISHERIES LAWS Sen. Ravenel

This bill amends several sections of the state's coastal fisheries laws. One provision in the bill requires a person to present a statement from the S.C. Department of Revenue indicating he filed a South Carolina income tax form as a resident to receive a land and sell license, trawl vessel license, or a crab trap (pot) license. The bill states that it is unlawful to possess a valid South Carolina resident fishing license and any other valid resident fishing license of another state. Another provision in the bill requires a person to obtain a license for \$25.00 for the first 50 crab traps (pots) and to pay an additional dollar fee for each additional trap. Before using crab traps for commercial purposes, a nonresident must obtain a license for \$300.00 for the first 50 crab traps and pay an additional \$10.00 fee for each additional trap. Crab pot floats must contain identification numbers assigned by the S.C. Department of Natural Resources, and any vessel using crab traps to catch blue crabs must have crab trap identification numbers conspicuously displayed on the vessel.

S.637 STATE GAME ZONES / HUNTING ANTLERLESS DEER Sen. Peeler

This bill revises the composition of Game Zones 1 and 2 and revises the open season for taking deer in Game Zones 1, 2, and 4. The legislation also authorizes the Department of Natural Resources to set bag limits and methods for hunting to properly control the hunting and taking of antlerless deer. In Game Zones 1, 2, and 4, the department may issue individual tags for antlerless deer at a cost of \$5.00 each. These tags must be possessed and used only by the individuals to whom they are issued. Revenue generated from the sale of individual tags must be used to administer the tag program and for deer management and research. The department must utilize 20% of this revenue for law enforcement. In all other game zones, the department may issue antlerless deer quota permits to landowners or lessees at a cost of \$50.00 each. Revenue generated from the quota permits must be used to administer the tag program and for deer management and research. Antlerless deer taken pursuant to quota permits must be tagged with a valid antlerless deer tag and reported to the department. Each tag must be attached to the deer before the animal is moved from the point of kill. The department may suspend the taking of antlerless deer or revoke any quota permit when environmental conditions or other factors warrant. It is unlawful to hunt or take, possess, or transport antlerless deer, except as permitted by this section. Violators are guilty of a misdemeanor and, upon conviction, must be fined not less than \$50.00 nor more than \$500.00 or imprisoned not to exceed 30 days.

S.668 SHRIMP TRAWLING LICENSES Sen. Ravenel

This bill directs the Department of Natural Resources to develop a procedure to limit the sale of shrimp trawling licenses to the number sold during 1996 for a period of two years, effective July first of the year of the effective date of this act, with preference for receiving a license going to those residents and nonresidents who held a valid South Carolina trawler's license during the 1996 season. The department must also examine the feasibility and desirability of creating a limited entry fishery thereafter, and report its findings and recommendations to the General Assembly during its next regular session after this two-year moratorium period.

EDUCATION AND PUBLIC WORKS

H.4093 LICENSE PLATES FOR FIREARMS ENTHUSIASTS Rep. Bauer

This bill provides for the issuance of special license plates for firearms enthusiasts. The plates must bear the words, "Second Amendment the Cornerstone of Freedom."

S.510 TRANSFER OF LICENSE PLATES Sen. Leatherman

This bill allows the transfer of license plates from one motor vehicle to another motor vehicle of the same vehicle owner or lessee, only if the applicant has assigned to another the title to or the lease on the motor vehicle from which the plate is to be transferred. The bill also provides for collection of property taxes from motor carriers who have failed to pay, and provides for fees in lieu of property taxes for semitrailers and trailers of motor carriers. The bill also provides that certain motor vehicles which are acquired after March 31, 1997, are subject to fiscal year 1998 property taxes.

S.542 PUBLIC SCHOOL TEXTBOOKS Sen. Fair

This bill establishes a procedure for the State Board of Education to add textbooks to the list of textbooks approved for use in SC public schools, upon written request of the boards of trustees of five or more school districts during any 365 day period. The bill prohibits the State Board of Education from approving the adoption of a textbook or other instructional material which contains any clear, substantive, factual, or grammatical error, and provides that contracts between the State Board of Education and a publisher or vendor of textbooks or other instructional material require that the material is free of any such errors. The bill provides for the purchase by a school district of State Board of Education-approved school textbooks directly from a publisher under contract with the state board when needed for instruction by the school district if the textbooks are not available from the State Department of Education. Also, the bill prohibits a public school from beginning a course if state-approved textbooks(s) or other course material is not available on the first day of class or if the delivery date is after the first two weeks of classes unless the board of trustees determines that the class should be offered. The bill establishes membership requirements for evaluation and rating committees for textbooks and for instructional materials and delineates certain considerations which must be included in rating and evaluating criteria. The bill also provides that before final adoption, the state board shall make all textbooks and instructional material available for public inspection for at least thirty days, at display centers geographically dispersed throughout the state.

S.552 COTTON MODULAR LOADS AND VEHICLES Sen. Land

This bill provides that cotton modular vehicles are not required to conform to certain statutory axle spacing requirements, but that the vehicle is limited to 65,000 pounds gross vehicle weight and 25,000 pounds for each axle plus scale tolerances. The bill also increases the maximum width allowed for cotton modular vehicles and deletes the prohibition against loaded cotton modular vehicles operating on interstate highways.

S.640 RALLIES FOR RECREATIONAL VEHICLES Sen. Rankin

This bill provides that travel trailers may not be exhibited or displayed at any rally unless the "rally" conforms to the definition of "a gathering of camping club members who own similar types of recreational vehicles and who register for the event and convene at a campground to conduct family educational and recreational activities which are not open to the general public." The bill also requires that the rally must be held at a campground which conforms to the

definition of "campground" provided in the bill. The bill also delineates other requirements relating to the sale, exhibition, or display of vehicles at these rallies, and provides that no campground may sponsor more than eight rallies per calendar year. Also, the bill provides for a \$250 application fee for a permit for display or exhibition of these vehicles, and provides that a SC licensed travel trailer dealer may participate in a rally under the terms of this section without obtaining certain temporary license.

JUDICIARY

S.220 ABATEMENT OF NUISANCES Sen. Hayes

This bill provides that the use of buildings for gambling, illegal possession, or sale of alcoholic beverages or controlled substances, and continuous breach of peace may be considered nuisances and abated as such.

S.461 PROBATE Sen. Holland

This bill makes comprehensive revisions to the probate code and laws pertaining to trusts and estates.

S.57 UNPAID GOVERNMENTAL SERVICE FEES/CHARGES Sen. Rose

This bill establishes a procedure by which unpaid fees and charges on such governmental services as water distribution, sewage collection, etc. become liens on the real property of individuals who have neglected to pay.

S.49 TERMS OF SERVICE FOR MAGISTRATES Sen. Rose

This bill provides that the initial term of office for a magistrate who has not previously served as a magistrate shall be two years from the date of confirmation and the second term of such individual shall be extend to the conclusion of the four-year period.

S.75 RATIFICATION OF CONSTITUTIONAL AMENDMENT: VICTIM'S BILL OF RIGHTS Sen. Drummond

This bill ratifies the amendment to the South Carolina Constitution approved by voters in November of 1996 which establishes a "Victim's Bill of Rights."

S.249 MARTIN LUTHER KING, JR.'S BIRTHDAY AND CONFEDERATE MEMORIAL DAY HOLIDAYS Sen. Ford

This bill establishes Martin Luther King, Jr.'s birthday on January 15 and Confederate Memorial Day on May 10 as state holidays. Election Day and Washington's birthday are redesignated as alternative, optional holidays for state employees.

S.281 REMOVAL OR RENAMING OF MONUMENTS Sen. Ford

This bill requires a two-thirds affirmative vote from each branch of the General Assembly for the removal or renaming of a monument or memorial located on public property honoring the Confederacy or the Civil Rights Movement to take place.

S.532 CHILD SUPPORT Sen. Martin

This bill effects changes to the state's child support laws in order to keep South Carolina eligible for federal Social Security funding.

S.604 SECRETARY OF STATE Sen. Rose

This bill provides that the person elected Secretary of State in the 1998 election or thereafter shall receive no compensation and exercise no duties. The duties of the office must be devolved upon state agencies.

S.616 SERVICES FOR CRIME VICTIMS Sen. Holland

This bill provides a standard protocol for conducting exams and treatment for rape and sexual assault victims. The cost of such examinations and treatment must be borne by the Victim's Compensation Fund. The bill establishes an array of services which law enforcement and the courts must provide for crime victims, including notification of services for which they are eligible, reports on their assailants and the progression of court cases, and protection from harassment and traumatic encounters with assailants during court proceedings. The bill revises amounts paid in court assessments and the way in which those funds are divided among law enforcement and judicial programs.

LABOR, COMMERCE AND INDUSTRY

S.303 WORKER'S COMPENSATION INSURANCE FOR CONTRACTORS Sen. Courtney

This bill provides that in situations where a contractor or subcontractor falsely represents himself as having worker's compensation insurance when engaging in work for a higher tier subcontractor, contractor, or project owner or when a contractor or subcontractor fails to notify that employer within five days of a lapse in his coverage, these actions of the contractor or subcontractor constitute fraud.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.4098 LOCATION OF EMERGENCY MEDICAL SERVICES HEADQUARTERS Rep. Lee

This bill prohibits the location of a proposed Emergency Medical Services Headquarters (to be constructed by the County of Spartanburg) on specified residential property in Spartanburg County.

S.627 OFF-DUTY STATE TROOPER Sen. Courtney

This bill authorizes a state trooper to wear his uniform and use his weapon while performing a private job involving security or traffic, crowd, or pedestrian control in his off-duty hours if an indemnity agreement is entered into by the Department of Public Safety and the off-duty employer. The indemnity agreement must provide that the department is not liable for any workers' compensation claims of the trooper or for any acts or omissions which occur while the trooper is performing his off-duty job. The indemnity agreement must require the off-duty employer to provide sufficient sureties and insurance to protect the department from such claims.

WAYS AND MEANS

H.4100 LEASE PURCHASE/FINANCING AGREEMENTS Rep. Askins

This bill provides an exemption from application of the constitutional limit on bonded indebtedness for financing agreements entered into for the purpose of refinancing any existing financing agreement, lease agreement, or similar agreement or refunding outstanding certificates of participation payable from a financing agreement, lease agreement, or similar agreement, if the governing body of the governmental entity determines that a savings can be achieved through the refinancing or refunding.

S.547 SC COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS COMMISSION Sen. Matthews

This bill creates the SC Community Development Financial Institutions Commission, whose purpose is to identify and respond to community needs for capital, credit, and development services in the absence of, or as a complement to, services provided by other lenders. The intent is to facilitate the restoration and maintenance of South Carolina's communities which are facing social and economic problems arising in part from the lack of economic growth, people living in poverty, and the lack of employment. The commission is empowered to certify entities as community development financial institutions and as community development corporations, and to make grants to such certified entities using funds from the General Assembly or other available funds. The bill delineates the powers of the commission and creates a governing body of seven members. The bill defines a "community development financial institution" and a "community development corporation" for purposes of certification by the commission, and provides that the commission will establish and implement criteria for grants made to community development corporations. The bill also provides to taxpayers, under certain conditions, a credit against certain tax liability, of 50% of all amounts invested in a certified community development financial institution or community development corporation. The bill specifies that the commission shall cease to exist on July 1, 2003, unless further authorized by the General Assembly.

FOOTNOTE

The Legislative Update is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (www.lpitr.state.sc.us) and click on the "Quick Find Guide." On the next screen, click on "Legislative Update." This will list all of the Legislative Updates by date. Click on the date you need.